

**BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO**

In the Matter of the Protest of	)	
	)	DOCKET NO. 19263
[REDACTED]	)	
Petitioners.	)	DECISION
	)	
	)	
	)	

---

On January 27, 2006, the Revenue Operations Division of the Idaho State Tax Commission denied a request by [Redacted] (taxpayers) for refund of Idaho individual income tax in the amount of \$629 for the period ending December 31, 1999; \$635 for the period ending December 31, 2000; and \$550 for the period ending December 31, 2001. The taxpayers filed a timely protest and petition for redetermination of the refund denials. The Tax Commission has reviewed the file, is advised of its contents, and hereby issues its decision.

In response to a request from the Tax Commission's Tax Discovery Bureau, the taxpayers submitted their 1999 through 2001 Idaho individual income tax returns to the Tax Commission for processing. Because the time for claiming the refunds shown in the three returns had expired, a letter was mailed to the taxpayers advising them of the Tax Commission's intent to deny the refunds. The taxpayers objected. A Notice of Deficiency Determination was issued wherein the taxpayers were advised the refunds were denied and they had a right to appeal the determination.

Idaho Code § 63-3032 defines the due date of Idaho income tax returns:

**63-3032. Time for filing income tax returns.** (1) Except as provided in section 63-3033, Idaho Code:  
(a) Returns made on the basis of the calendar year shall be filed in the office of the Idaho state tax commission on or before the fifteenth day of April following the close of the calendar year and returns made on the basis of a fiscal year shall be filed in the office of the Idaho state tax commission on or before the fifteenth day of the fourth month following the close of the fiscal year.

As residents of Idaho with taxable income, the taxpayers were required to file Idaho individual income tax returns. The returns were made on the basis of a calendar year; therefore, they were required to be filed on or before April 15th following the close of each calendar year.

When the taxpayers did not comply with the requirement to file their income tax returns within a certain timeframe, they put their refunds in jeopardy. Mr. [Redacted] explained the reason for not filing as:

I have not taken a refund for over 20 years on my taxes. I have always applied them to the next year, and have always paid additional taxes either with the return or with the request for extensions to make sure that I would not owe taxes. In not filing the paperwork in a timely manner I always had in the back of my mind [sic] that I had paid enough to cover the amounts owed so did not worry about filing the paperwork. I was telling myself that I would get it filed 'someday.'

Mr. [Redacted] requested leniency from the Tax Commission because he always applied over-payments to the following year instead of taking them as refunds. He said he did not know there was a three-year time limit for claiming a refund or credit of an overpayment. He asked to have the refunds carried forward as credits for payment of tax due for other years.

The taxpayers were responsible for filing their income tax returns each year to credit the prepaid taxes against their income tax liability and claim any refund.

Idaho Code § 63-3072(a), (b), and (c) state:

**63-3072. Credits and refunds.** (a) Subject to the provisions of subsections (b), (c) and (g) of this section, where there has been an overpayment of the tax imposed by the provisions of this chapter, the amount of such overpayment shall be credited against any tax administered by the state tax commission which tax is then due from the taxpayer, and any balance of such excess shall be refunded to the taxpayer.

(b) Except in regard to amounts withheld as provided in section 63-3035, 63-3035A or 63-3036, Idaho Code, or amounts paid as estimated payments under section 63-3036A, Idaho Code, a claim for credit or refund of tax, penalties, or interest paid shall be made

within the later of three (3) years of the due date of the return, without regard to extensions, or three (3) years from the date the return was filed. **However, with regard to remittances received with an extension of time to file, or a tentative return, a claim for credit or refund of such remittances shall be made within three (3) years from the due date of the return without regard to extensions.**

(c) With regard to amounts withheld as provided in section 63-3035, 63-3035A or 63-3036, Idaho Code, or amounts paid as estimated payments under section 63-3036A, Idaho Code, a claim for credit or refund shall be made within three (3) years from the due date of the return, without regard to extensions, for the taxable year in respect to which the tax was withheld.  
(Emphasis added.)

Idaho law provides for a refund or credit of any overpayment; however, the claim for refund or credit must be made within a certain time frame. The taxpayers made their claim for a refund or credit when they filed all three returns on November 15, 2005. Unfortunately, the time allowed for claiming the 1999 refund or credit expired on April 15, 2003; the time allowed for claiming the 2000 refund or credit expired on April 15, 2004; and the time allowed for claiming the 2001 refund or credit expired on April 15, 2005.

Idaho Code § 63-3072 is clear and unequivocal. The language in these sections “shall be made. . .” is not discretionary, but rather, it is mandatory. The Tax Commission finds Idaho Code § 63-3072(c), cited above, is controlling with respect to the taxpayers’ refund or credit claims for tax years 1999, 2000, and 2001. No credits or refunds can be given.

WHEREFORE, the Notice of Deficiency Determination directed to [Redacted], dated January 27, 2006, that denies the taxpayers a refund is APPROVED, AFFIRMED, and MADE FINAL.

An explanation of the taxpayers' right to appeal this decision is included with this decision.

DATED this \_\_\_\_ day of \_\_\_\_\_, 2006.

IDAHO STATE TAX COMMISSION

---

COMMISSIONER

**CERTIFICATE OF SERVICE**

I hereby certify that on this \_\_\_\_ day of \_\_\_\_\_, 2006, a copy of the within and foregoing DECISION was served by sending the same by United States mail, postage prepaid, in an envelope addressed to:

[REDACTED]

Receipt No.